

**MEMO ENDORSED****UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

-----x  
EDITH SCHLAIN WINDSOR, in her capacity as Executor of the Estate of THEA CLARA SPYER, Plaintiff, v. THE UNITED STATES OF AMERICA Defendant.  
-----x

: No. 1:10-cv-8435-BSJ-JCF  
: ECF Case  
:

**UNOPPOSED MOTION FOR LEAVE TO FILE A BRIEF FOR THE STATE OF NEW YORK AS AMICUS CURIAE IN SUPPORT OF THE PLAINTIFF**

The Attorney General of the State of New York hereby moves this Court, upon the annexed Memorandum of Law and annexed proposed *amicus curiae* brief, for an order granting the Attorney General leave to file a brief for the State of New York as amicus curiae to explain that the Defense of Marriage Act, Pub. No. L. 104-199, 110 Stat. 2419 (Sept. 21, 1996), codified at 1 U.S.C. § 7 ("DOMA"), is unconstitutional because it violates the equal protection component of the Due Process Clause of the Fifth Amendment.

Counsel for Plaintiff and counsel for the United States have consented to this motion. Counsel for the Bipartisan Legal Advisory Group of the U.S. House of Representatives has no objection to this motion.

USDS SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: <u>8/3/11</u>

Dated: July 26, 2011.

Respectfully submitted,

ERIC T. SCHNEIDERMAN  
*Attorney General of the*  
*State of New York*  
BARBARA D. UNDERWOOD  
*Solicitor General*  
BENJAMIN N. GUTMAN  
*Deputy Solicitor General*

By: /s/ Simon Heller  
SIMON HELLER  
*Assistant Solicitor General*  
120 Broadway, 25<sup>th</sup> floor  
New York, NY 10271  
P: 212-416-8020  
F: 212-416-8962  
simon.heller@ag.ny.gov

8/3/11  
Motion granted.  
so ORDERED.  
James C. Francis IV  
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VSM-T